

HRL EXHIBIT 5

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST
LITIGATION

No. 0:18-cv-01776-JRT-HB

PARTIES' AGREED PROTOCOL
FOR PRESERVATION OF PHONE
RECORDS

This Document Relates To:

All Actions

The Parties agree that Defendants are to use the following protocol regarding “the preservation of telephone records pertaining to Defendants’ document custodians in the possession of their respective telephone service providers.” (Dkt. No. 318).

For each agreed-upon document custodian, each Defendant will take the following steps to the extent it has not already done so:

1. Defendants will notify the relevant telephone service providers to preserve the telephone records associated with phone numbers/accounts associated with agreed-upon document custodians to the extent that such phone numbers/accounts are within Defendants’ possession, custody, or control and can be identified by a reasonable search.
2. With respect to the telephone records associated with personal cell phones that a Defendant asserts are not within its possession, custody, or control, such Defendant will undertake reasonable efforts:
 - To determine whether each agreed-upon document custodian has a personal cell phone that was used by that document custodian for work purposes; and
 - For each agreed-upon document custodian determined to have a personal cell phone that was used by that document custodian for work purposes, such Defendant will *either*:
 - a. Assist that document custodian in sending a letter to their telephone carrier asking that carrier to preserve telephone records related to their phone number; or
 - b. If the Defendant or document custodian will not agree to the sending of such a letter, inform Plaintiffs that such a letter will not be sent with regard to that document custodian.
3. For any document custodian a Defendant has already proposed, the Defendant will make reasonable efforts to send the letter outlined above to the phone carrier, or provide the notice outlined above to the Plaintiffs, no later than June 1, 2019. For any document custodian the parties subsequently agree upon, the Defendant will make reasonable efforts to send the letter outlined above to the phone carrier, or provide the notice outlined above to the Plaintiffs, within 30 days of such agreement.

Nothing in this protocol shall be construed as a concession that any information addressed by any preservation request is relevant, admissible, or will be produced to Plaintiffs in this litigation; nor do Defendants concede that personal cell phones or any other personal property of their employees are within Defendants’ possession, custody, or control.

Dated: May 13, 2019

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